

REMARKS

The Examiner has issued a restriction/election office action classifying the pending claims of the present application into two groups of distinct inventions, as follows: Group I: Claims 1-11; and Group II: Claims 12-32. In response, applicant has canceled claims 12 and 23, and amended claims 13, 15, 16, 22, 24, 26 and 27. For the reasons that follow, applicant respectfully submits that pending claims 1-11, 13-22 and 24-32 should be examined in the present application.

A. Applicant's Express Election and Traverse Under MPEP §818.03

For the purpose of being responsive to the Examiner's request on page 2 of the Detailed Action, and as required by MPEP §809.02(a) and §818.03, applicant hereby elects, *with traverse*, Group I containing claims 1-11, for examination on the merits.

However, it is noted that according to MPEP §803, the two criteria for a proper requirement for restriction are that (1) The inventions must be independent (see MPEP §802.01, §806.04, §808.01) or distinct as claimed (see MPEP §806.05 - §806.05(i)); and (2) There must be a serious burden on the examiner if restriction is required (see MPEP §803.02, §806.04(a) - §806.04(i), §808.01(a), and §808.02). As such, applicant *traverses* the Examiner's restriction requirement and the grouping of the claims into two (2) "patentably distinct" species as discussed below.

1. There Are No Independent Inventions

Applicant respectfully submits that, in the present application, the species identified by the Examiner are not independent.

The pending claims of the present application are not directed to different "combinations not capable of use together, having different modes of operation, different functions or different

effects.” See MPEP §806.04 which recites, by way of example, that an article of apparel such as a shoe is independent from a locomotive bearing, or that a process for painting a house is independent from a process for boring a well.

The pending claims of the present application are directed to methods for depositing micro-lenses on a semiconductive circuit and micro-lens structures formed by such methods. (See independent claims 1, 4, 13, 16, 22, 24 and 27 (as amended)). Applicant respectfully submits that none of these claims is directed to subject matter that can be deemed as an independent invention within the meaning of MPEP §806.04.

According to MPEP §806.04(e), the species are independent only when there is no relationship between them. In the present application, there is in fact a relationship between the above-cited independent claims, as they all relate to methods for depositing micro-lenses on a semiconductive circuit and micro-lens structures formed by such methods. In other words, the claims of the present invention do not have “mutually exclusive characteristics” as required for a proper restriction requirement under MPEP §806.04(f). The Examiner should note that claims 13, 16, 22, 24 and 27, as amended, include elements similar to one of the method claims 1-11. For example, claim 13, as amended, includes limitations similar to those of claim 1.

2. There Are No Distinct Inventions

The disclosure and claims in the present application are not directed to distinct species as defined by MPEP §806.05, since, for example, there are no process claims that can be used to achieve a structure different from the claimed structure. Furthermore, even if applicant was to file divisional applications directed to the two (2) species identified by the Examiner, “IT STILL REMAINS IMPORTANT FROM THE STANDPOINT OF THE PUBLIC INTEREST THAT

NO REQUIREMENTS BE MADE WHICH MIGHT RESULT IN THE ISSUANCE OF TWO PATENTS FOR THE SAME INVENTION.” See MPEP §803.01 (capitals in original).

3. There Is No Serious Burden For Prior Art Search

Furthermore, the MPEP requires that there be a serious burden on the examiner if restriction is required (see MPEP §803.02, §806.04(a) - §806.04(i), §808.01(a), and §808.02). MPEP §803 emphasizes that: “If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.” Applicant respectfully submits that no additional burden is imposed on the Examiner to conduct a prior art search, since such prior art search should be directed to methods for depositing micro-lenses on a semiconductive circuit and micro-lens structures formed by such methods, as claims 13, 16, 22, 24 and 27, as amended, include elements similar to one of the method claims 1-11.

B. Objection to Claims 15, 22 and 26

The Examiner has objected to claims 15, 22 and 26 for depending upon a micro lens structure claim, but reciting dependency from a method claim. Applicant has amended claims 15, 22 and 26 to recite dependency from a micro lens structure. Accordingly, applicant respectfully submits that the Examiner’s objection has been overcome.

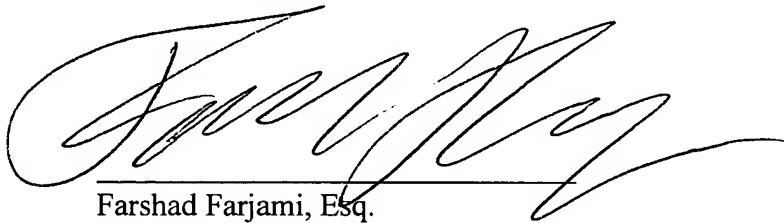
C. Conclusion

In light of the above reasons, applicant respectfully *traverses* the Examiner’s restriction requirement and requests that claims 1-11, 13-22 and 24-32 in the present application be Examined as part of a single application. In the unlikely event that the Examiner maintains the present restriction requirement, as required by MPEP §809.02(a) and §818.03, applicant has

made a provisional election of Group I (i.e. claims 1-11) for prosecution in the present application.

The Examiner is invited to contact the undersigned for any comments or discussions regarding the present application.

Respectfully Submitted;
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